

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:12-CV-00704-FDW-DSC**

JASON K. PURSER, ET AL.,

Plaintiffs,

vs.

**TITIA LONG-NICKENS, a/k/a TITIA
LONG, a/k/a TLN INTERNATIONAL
EXPRESS TRUST, a/k/a TLN EXPRESS
TRUST, and TORNELLO F. PIERCE,**

Defendants.

ORDER

THIS MATTER is before the Court sua sponte. For the reasons set forth below, Plaintiff Jason K. Purser and Defendant Tornello F. Pierce are hereby **ORDERED** to appear before the Court at **11:30 a.m., on Tuesday, August 6, 2013**, in Courtroom 1 of the Charles R. Jonas Federal Building located at 401 West Trade Street in Charlotte, North Carolina. Defendant Pierce is **ORDERED TO APPEAR WITH PAYMENT** for Plaintiff Purser. If Defendant Pierce does not provide payment at the time of the hearing in a form acceptable to the Court as described in this Order, he will be required to show cause why he cannot pay. If Defendant Pierce does not show cause why he cannot pay, he will be subject to being held in contempt of court and faces sanctions, including potential detention in a confinement facility until he makes payment as ordered. If Defendant Pierce does not appear, a bench warrant will be issued for his immediate arrest.

Previously, this Court issued an Order requiring Defendant Pierce to pay Plaintiff Purser \$2,905.50 in attorney's fees for Defendant Pierce's frivolous and objectively unreasonable removal of this case from state court into this Court. (Doc. No. 24). This payment was due by

February 5, 2013, and Defendant Pierce was warned that failure to pay this amount to Plaintiff Purser by the deadline could result in him being found in contempt of court and risking sanctions including possible detention. The Court notes that the text of this portion of its Order was both bold and underlined. (Doc. No. 24, p. 2). As such, the Court could not have been clearer that compliance with its Order was expected. Nonetheless, Defendant Pierce did not pay Plaintiff Purser as ordered, but instead provided Plaintiff Purser with an “Indemnity Bond” (“Bond”).¹ The Bond appeared to promise that Defendant Pierce will pay Plaintiff Purser \$5,000.00 with interest, although document was very unclear, notably in that it stated that “FOR VALUE RECEIVED, the undersigned hereby jointly and severally promise [sic] to pay to the order of TORNELLO F PIERCE the sum of -Five Thousand Dollars And Zero/100 (-\$5,000.00)” and was then signed by Defendant Pierce with the word “Grantor” below the signature line. Regardless, this Bond did not satisfy the Court’s Order that Defendant Pierce pay Plaintiff Purser \$2,905.50 by February 5, 2013.²

Following these events, Plaintiff Purser submitted a Report to the Court (Doc. No. 25), regarding Defendant Pierce’s non-payment of Plaintiff’s attorney’s fees as previously ordered by this Court. In this Report, Plaintiffs asked “that this Court enforce its previous order and award other and further relief that is reasonable and just.” Accordingly, this Court treated the Report as a Motion by Plaintiffs. The Motion was granted and Plaintiff Jason K. Purser and Defendant Pierce were ordered to appear before the Court. Defendant Pierce was ordered to appear at the hearing with payment for Plaintiff Purser. The hearing was cancelled as the Court discovered that Defendant Pierce was incarcerated at the time for which the hearing was scheduled.

¹ A copy of this document was provided to the Court by Plaintiff Purser. (Doc. No. 25, Exh. 1).

² Plaintiff Purser also stated that “Plaintiffs have not agreed to the terms of the Indemnity Bond.” (Doc. No. 25).

Accordingly, the Court scheduled a new hearing for July 1, 2013 after it became aware that Defendant pierce had been released from jail. However, the United States Marshals Service was unable to locate Defendant Pierce for service by that time and that hearing was also cancelled.

The Court now schedules a third hearing on this matter. Defendant Pierce is hereby ORDERED to appear before the Court at **11:30 a.m., on Tuesday, August 6, 2013**, in Courtroom 1 of the Charles R. Jonas Federal Building located at 401 West Trade Street in Charlotte, North Carolina. Furthermore, Defendant Pierce is specifically ORDERED TO APPEAR WITH PAYMENT in hand for Plaintiff Purser. Plaintiff Purser is also ORDERED to attend this hearing. If Defendant Pierce is unable to pay the amount in full, he will be required to provide evidence to that effect, including providing the Court with a copy of his previous year's tax return and statements of any bank accounts he holds. He will also be expected to explain to this Court why he lacks funds to pay the ordered amount when he was able pay the initial filing fee to frivolously remove this case from state court into this Court. If Defendant Pierce does not provide payment or show cause why he cannot pay the \$2,905.50, he may be held in contempt of court and faces sanctions including possible detention until he makes payment. For purposes of this Order, a check issued by Defendant Pierce that bounces or other form of deficient payment will be considered a failure to provide payment. If Defendant Pierce does not appear at this hearing, a bench warrant will be issued and he will be subject to immediate arrest.

For the above reasons, Defendant Pierce and Plaintiff Purser are ORDERED to appear at a hearing before this Court at **11:30 a.m., on Tuesday, August 6, 2013**, in Courtroom 1 of the Charles R. Jonas Federal Building, located at 401 West Trade Street in Charlotte, North Carolina. Defendant Pierce is ORDERED TO APPEAR WITH PAYMENT at this hearing. Failure to pay, or show cause why he is unable to pay, may result in Defendant Pierce being held

in contempt and facing sanctions, including possible detention until payment is made. Failure to appear will result in a bench warrant being issued for Defendant Pierce's immediate arrest.

This Order is to be served personally upon Defendant Pierce by the United States Marshals Service. For purposes of service on Defendant Pierce, the Court informs the United States Marshals Service that Defendant Pierce is expected to appear as a defendant in a state court proceeding in case number 2013065284 CR in the a.m. session in Courtroom GB1D on July 8, 2013 in the Guilford County Courthouse. Also, Defendant may be residing at 2618 Battleground Avenue, Apartment A, Greensboro, NC 27405, at 4203 Clovelly Drive, Greensboro, NC 27406, or at 304 Murraylane Road, Greensboro, NC 27405. This notice does not preclude the United States Marshals Service from personally serving Defendant Pierce at any other location.

IT IS SO ORDERED.

Signed: July 2, 2013

A handwritten signature in black ink, appearing to read "Frank D. Whitney", is written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

